

Decision No. C22-0777

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22V-0404EC

IN THE MATTER OF THE PETITION OF DENVER SAM TRANSPORTATION FOR AN
ORDER OF THE COMMISSION AUTHORIZING A WAIVER OF THE RULES
REGULATING TRANSPORTATION BY MOTOR VEHICLE, 4 CCR 723-6.

**COMMISSION DECISION DENYING APPLICATION FOR
REHEARING, REARGUMENT, OR RECONSIDERATION
OF DECISION NO. C22-0668**

Mailed Date: December 1, 2022
Adopted Date: November 30, 2022

I. BY THE COMMISSION

A. Statement

1. Through this Decision, the Commission addresses the Application for Rehearing, Reargument, or Reconsideration (RRR), filed by Denver Sam Transportation (Petitioner) on November 4, 2022, pursuant to § 40-6-114, C.R.S. Petitioner further amended the Application for RRR on November 9, 2022. Petitioner requests reconsideration of Commission Decision No. C22-0668, issued October 28, 2022, which denied Petitioner's request for a two-year waiver of Rule 6305 of the Commission's Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) 723-6. Upon review of the arguments and further explanation offered in the Application for RRR, the Commission does not find good cause to revise its previous findings and denies the request.

B. Background

2. On September 21, 2022, Petitioner filed a Petition for Waiver/Variance of Regulated Intrastate Carrier Rules (Petition), requesting a rule waiver to allow it to use a 2022 Toyota Sienna vehicle for luxury limousine service. The Petition requested the rule waiver be granted for the period of October 1, 2022, through October 1, 2024.

3. Through Decision No. C22-0668, the Commission denied the Petition. The Commission concluded that there was insufficient support to grant the waiver for the underlying vehicle, considering it is classified as a minivan by the manufacturer, and operating a minivan in luxury limousine service is in conflict with the provisions of 6305(a)(III), 4 CCR 723-6. Furthermore, it was noted that Petitioner had previously filed a petition for waiver involving the same type of vehicle, which was also denied by the Commission.¹

C. Application for RRR

4. In its Application for RRR, Petitioner reiterates its request for the Commission to grant a waiver for the underlying vehicle. As good cause for the Commission to grant the requested rule waiver, Petitioner further explains information regarding the vehicle, its business model, and transportation alternatives.

5. Petitioner explains that the underlying vehicle offers good foot space for up to six passengers, which will reduce congestion along the I-70 corridor. The vehicle also uses a hybrid engine, which results in cleaner air for Colorado. Petitioner also points out that the vehicle is equipped with “all-wheel derivation,” which helps with harsh weather conditions. Petitioner argues that the underlying vehicle exceeds the value of other qualified luxury limousine vehicles

¹ See Decision No. C22-0145, Proceeding No. 22V-0063EC.

and suggests the Commission should consider vehicles based on model year and market value, rather than specific brands.

6. Petitioner describes their operation as a livery and transportation support company, which aims to connect carriers and customers to reduce deadheading. Petitioner claims this type of company will help reduce the number of vehicles on the road, which would alleviate traffic congestion and reduce carbon dioxide emissions. The operation is geared primarily towards mountain travel, with target customers being transported to ski resorts in Frisco, Vail, Breckenridge, and Winter Park. Petitioner claims to be targeting a very small portion of the market, with the long-term goal of running reliable, comfortable, and affordable car services for Colorado visitors and mountain travelers.

7. Petitioner claims that alternative forms of transportation, such as taxis and rideshare companies, do not provide reliable transportation. Petitioner believes taxi service is an outdated business model that the public no longer elects to use. Petitioner also believes rideshare companies use unethical tactics to increase their market share and that available rideshare vehicles do not meet appropriate safety measures for mountain travel.

D. Findings and Conclusions

8. In accordance with Rule 1003 of the Commission's Rules of Practice and Procedure, 4 CCR 723-1, the Commission may grant a request to waive Commission rules for good cause shown. In rendering its decision, the Commission may take into account, but is not limited to, considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.

9. Upon review of Petitioner's Application for RRR, the Commission does not find adequate grounds to reconsider our determination to deny the requested rule waiver. Although Petitioner offers further details regarding the underlying vehicle and how it is intended to be used, including information that was not available in the Petition, none of this information persuades or compels the Commission to alter the policy determination that a minivan style vehicle lacks the attributes necessary to qualify as a luxury limousine, under Rule 6305(III), 4 CCR 723-6. The purpose of this rule is essentially customer protection, to ensure customers booking service from a luxury limousine carrier receive a service that meets their expectations and is, indeed, a luxury transportation experience. This rule has been in place for many years and the Commission's position on this issue is well settled. The Commission has consistently denied requests to waive this rule and allow for a minivan type vehicle to be used to provide luxury limousine services. Not only has the Commission denied a petition for waiver for this type of vehicle, as previously filed by Petitioner,² but the Commission also recently denied a petition for waiver for the same type of vehicle, as filed by a different party.³ The Commission has yet to see good cause to allow for variance for a type of vehicle that is explicitly excluded from eligibility for luxury limousine services, pursuant to 6305(a)(III), 4 CCR 723-6.

10. Therefore, the Commission denies the Application for RRR.

II. ORDER

A. The Commission Orders That:

1. The Application for Rehearing, Reargument, or Reconsideration of Decision No. C22-0668, filed on November 4, 2022, by Denver Sam Transportation, is denied.

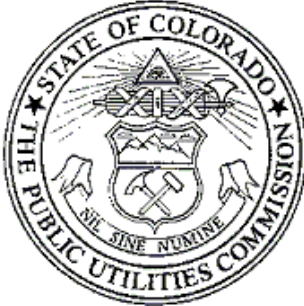
² See Decision No. C22-0145, Proceeding No. 22V-0063EC.

³ See Decision No. C21-0489, Proceeding No. 21V-0334EC.

2. This Decision shall be effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
November 30, 2022.**

(S E A L)



ATTEST: A TRUE COPY

G. Harris Adams,
Interim Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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JOHN GAVAN

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Commissioners